

OCA 87-1479
8 April 1987

MEMORANDUM FOR: Director of Personnel

FROM:

Legislation Division
Office of Congressional Affairs

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SUBJECT: Former Spouse Legislation

1. As you are aware, HPSCI staff last month provided the Agency with a proposed amendment to the Intelligence Authorization bill that would provide certain benefits to former spouses. The HPSCI staff has now provided this Office with a revised amendment that would provide additional benefits similar to that which is being proposed for former spouses of State Department employees.

2. The staff has requested that the Agency review the revised amendment and provide comments with respect to whether the amendment as drafted is technically correct. In addition, HPSCI staff has requested that we provide an estimate of the cost of providing the particular benefits specified in the amendment. Finally, the staff would like to know whether the Agency will oppose the enactment of the amendment.

3. As in the past, the HPSCI staff has only requested oral, informal comments. Since the Authorization bill will be going to markup in a week, it is necessary to have your comments by COB 13 April. Thank you for your cooperation.

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Attachment as
stated

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1 TITLE IV--RETIREMENT AND DEATH IN SERVICE BENEFITS

2 RETIREMENT BENEFITS

3 SEC. 401. (a) Part C of title II of the Central
4 Intelligence Agency Retirement Act of 1964 for Certain
5 Employees is amended by adding at the end the following new
6 section:

7 RETIREMENT BENEFITS FOR CERTAIN FORMER SPOUSES

8 SEC. 225. (a) Any individual who was a former spouse of
9 a participant or a former participant on November 15, 1982,
10 shall be entitled, to the extent of available appropriations,
11 and except to the extent such former spouse is disqualified
12 under subsection (b), to benefits--

13 (1) if married to the participant throughout the
14 creditable service of the participant, equal to 50
15 percent of the benefits of the participant; or

16 (2) if not married to the participant throughout
17 such creditable service, equal to that former spouse's
18 pro rata share of 50 percent of such benefits.

19 (b) A former spouse shall not be entitled to benefits
20 under this section if--

21 (1) the former spouse remarries before age 55; or

22 (2) the former spouse is less than 50 years of age.

23 (c)(1) The entitlement of a former spouse to benefits
24 under this section--

25 (A) shall commence on the later of--

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1 “(i) the day the participant upon whose service
2 benefits are based becomes entitled to benefits under
3 this title;

4 “(ii) the first day of the month in which the
5 divorce or annulment involved becomes final; or

6 “(iii) such former spouse's 50th birthday; and

7 “(B) shall terminate on the earlier of--

8 “(i) the last day of the month before the former
9 spouse dies or remarries before 55 years of age; or

10 “(ii) the date the benefits of the participant
11 terminate.

12 “(2) Notwithstanding paragraph (1), in the case of any
13 former spouse of a disability annuitant--

14 “(A) the benefits of the former spouse shall
15 commence on the date the participant would qualify on the
16 basis of his or her creditable service for benefits under
17 this title (other than a disability annuity) or the date
18 the disability annuity begins, whichever is later, and

19 “(B) the amount of benefits of the former spouse
20 shall be calculated on the basis of benefits for which
21 the participant would otherwise so qualify.

22 “(3) Benefits under this section shall be treated the
23 same as an annuity under section 222(a)(6) for purposes of
24 section 221(g)(2) or any comparable provision of law.

25 “(4)(A) Benefits under this section shall not be payable

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1 unless appropriate written application is provided to the
2 Director, complete with any supporting documentation which
3 the Director may by regulation require, within 30 months
4 after the effective date of this section. The Director may
5 waive the 30-month application requirement under this
6 subparagraph in any case in which the Director determines
7 that the circumstances so warrant.

8 “(B) Upon approval of an application as provided under
9 subparagraph (A), the appropriate benefits shall be payable
10 to the former spouse with respect to all periods before such
11 approval during which the former spouse was entitled to such
12 benefits under this section, but in no event shall benefits
13 be payable under this section with respect to any period
14 before the effective date of this section.

15 “(d) The Director shall--

16 “(1) as soon as possible, but not later than 60 days
17 after the effective date of this section, issue such
18 regulations as may be necessary to carry out this
19 section; and

20 “(2) to the maximum extent practicable, and as soon
21 as possible, inform each individual who was a former
22 spouse of a participant or a former participant on
23 November 15, 1982, of any rights which such individual
24 may have under this section.

25 “(e) Nothing in this section shall be construed to

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1 impair, reduce, or otherwise affect the annuity or the
2 entitlement to an annuity of a participant or former
3 participant under this title.''.
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5 (b) Section 14(a) of the Central Intelligence Agency Act
6 of 1949 is amended by inserting ``225,`` after ``223, 224,``.

7 DEATH IN SERVICE BENEFITS

8 SEC. 402. (a) Section 232(b) of the Central Intelligence
9 Agency Retirement Act of 1964 for Certain Employees (50 U.S.C
10 403(b) note) is amended--

11 (1) by inserting ``(1)`` before ``If a participant``;

12 (2) by striking all that follows ``as defined in
13 section 204,`` and inserting in lieu thereof ``or by a
14 former spouse qualifying for a survivor annuity under
15 section 222(b), such widow or widower shall be entitled
16 to an annuity equal to 55 percent of the annuity computed
17 in accordance with paragraphs (2) and (3) of this
18 subsection and section 221(a), and any such surviving
19 former spouse shall be entitled to an annuity computed in
20 accordance with section 222(b) and paragraph (2) of this
21 subsection as if the participant died after being
22 entitled to an annuity under this Act. The annuity of
23 such widow, widower, or former spouse shall commence on
24 the date following death of the participant and shall
25 terminate upon death or remarriage prior to attaining age
sixty of the widow, widower, or former spouse (subject to

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1 the payment and restoration provisions of sections 221(g)
2 and 222(b)(3)).''; and

3 (3) by adding at the end the following new
4 paragraphs:

5 `` (2) The annuity payable under paragraph (1) shall
6 be computed in accordance with section 221(a), except
7 that the computation of the annuity of the participant
8 under such section shall be at least the smaller of (A)
9 40 percent of the participant's average basic salary, or
10 (B) the sum obtained under such section after increasing
11 the participant's service of the type last performed by
12 the difference between the participant's age at the time
13 of death and age sixty.

14 `` (3) Notwithstanding paragraph (1), if the
15 participant had a former spouse qualifying for an annuity
16 under section 222(b), the annuity of a widow or widower
17 under this section shall be subject to the limitation of
18 section 221(b)(3)(B), and the annuity of a former spouse
19 under this section shall be subject to the limitation of
20 section 222(b)(4)(B).''.

21 (b)(1) Section 221(o)(2) of the Central Intelligence
22 Agency Retirement Act of 1964 for Certain Employees is
23 amended by inserting ``232(b),'' after ``222, 223, ''.

24 (2) Section 304 of the Central Intelligence Agency
25 Retirement Act of 1964 for Certain Employees is amended--

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1 (A) in subsection (b) by inserting ``and (3)'' after
2 ``subsection (c)(2)''; and

3 (B) in subsection (c)--

4 (i) by redesignating paragraphs (3) and (4) as
5 paragraphs (4) and (5), respectively; and

6 (ii) by inserting after paragraph (2) a new
7 paragraph as follows:

8 `` (3) Section 232(b).''.

9 (3) Section 14(a) of the Central Intelligence Agency Act
10 of 1949 (50 U.S.C. 403n(a)) is amended by inserting
11 ``232(b),'' before ``234(c), 234(d),''.

12 (c)(1) Except as provided in paragraph (2), the
13 amendments made by this section shall take effect on November
14 15, 1982, the effective date of the Central Intelligence
15 Agency Spouses' Retirement Equity Act of 1982.

16 (2) The amendment made by subsection (b)(2) shall take
17 effect on January 1, 1987, the effective date of the Federal
18 Employees' Retirement System Act of 1986.